IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 7833 of 2007(G)

PETITIONER:

P.N. SASEENDRAN, AGED 52 YEARS,
S/O.NARAYANAN, RESIDING AT PUTTINGAL PARAMBIL,
KANGARAPADY, VADAKODU P.O.,
THRIKKAKARA NORTH VILLAGE.

BY ADV. SRI.T.RAJASEKHARAN NAIR

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHY BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

2. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, K.S.E.B.,
ALUVA, ERNAKULAM.

3. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION,
K.S.E.B., THEVAKKAL.

BY SC SRI. P.P. THAJUDEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE PHOTOCOPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 24.5.2004

EXT.P2 TRUE PHOTOCOPY OF THE DEMAND NOTICE DATED 1.12.1996 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.

EXT.P3 TRUE COPY OF THE DEMAND BILL DATED 12.4.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE BILL DATED 18.5.2004 ISSUED BY THE OFFICE OF THE THIRD RESPONDENT.

EXT.P5 TRUE COPY OF THE BILL DATED 11.4.2006 ISSUED BY THE THIRD RESPONDENT.

EXT.P6 TRUE COPY OF THE INTERIM ORDER DATED 2.6.2004 PASSED BY THIS COURT IN WPC 16498/2004

EXT.P7 TRUE COPY OF THE JUDGMENT DATED 21.6.2006 PASSED BY THIS COURT IN WPC 16498/2004.

EXT.P8 TRUE PHOTOCOPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 27.1.2007

EXT.P9 TRUE PHOTOCOPY OF THE NOTICE DATED 5.3.2007 ISSUED BY THE THIRD RESPONDENT.

EXT.P10 TRUE COPY OF THE RECEIPT SHOWING THE REMITTANCE OF THEAMOUNT.

EXT.P11 TRUE COPY OF THE BILLS ISSUED BY THE RESPONDENT FROM THE MONTH OF JANUARY 2007 ONWARDS TO THE PETITIONER.

RESPONDENTS' EXHIBITS:NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.7833 of 2007

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Dated this the 3rd day of December, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for KSEB. The petitioner's industrial unit which had electric connection was taken over by KFC under the State Financial Corporations Act. This happened in November 1996. The petitioner admittedly was returned the unit by KFC in 2004. Pursuant to direction of this court in Ext.P7 judgment and in the Writ Appeal filed against the same, power supply was restored to the petitioner in 2004. Even though petitioner has not stated the month in which connection was given, it is clear from Exts.P3 and P4 that connection would have been given in February because otherwise monthly bills would not have been raised for March and April 2004. The petitioner's grievance is mainly against demand of fixed charges beyond six months permissible under Clause 34(d) of the Conditions of Supply of Electrical Energy. Even though subsequent orders are issued, I find the entire matter is considered in Ext.P1 and the Executive Engineer accepted the petitioner's claim that fixed charges cannot be demanded beyond six months from date of disconnection. In this case disconnection was not requested by the petitioner because unit

was taken over by KFC when it had power supply. The Executive Engineer has stated in Ext.P1 that KSEB treats the disconnection from 11/1996 because the door remained closed after KFC took over the unit. However, probably by mistake he stated that fixed charges will be payable by the petitioner from 11/1996 to 11/1997 which is not permissible under the Rules. In the circumstances, I dispose of the W.P. directing the third respondent to revise bills by limiting demand of fixed charges from 11/1996. Since disconnection was effected in 1998 and power supply was restored to the petitioner in 2004, the Executive Engineer rightly treated petitioner's connection given in 2004 as fresh connection. This part of the order in Ext.P1 and subsequent decisions are upheld. The third respondent will revise bills limiting the demand of fixed charges for six months from November 1996 and thereafter he will adjust payments made towards amount payable by the petitioner treating the connection given in 2004 as a new connection. Deposits or regular power bills payable by the petitioner can also be recovered from the petitioner. The petitioner will produce details of payments and there will be direction to the third respondent to adjust the revised bills against payments made and recompute surcharge liability if any, only after adjusting payments on date of payment. A detailed statement will be given to the petitioner within three weeks from

the date of production of copy of this judgment and along with it receipts of payment made by him. There will be direction to the third respondent to receive payments offered for all regular bills and if he does not receive the same, the Executive Engineer will recover from concerned officials personally the interest payable for the belated recovery.

The W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms